

AMENDED IN SENATE AUGUST 24, 2012

AMENDED IN SENATE JUNE 21, 2012

AMENDED IN SENATE JUNE 15, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1966

Introduced by Assembly Member Ma

February 23, 2012

An act to amend Section 848 of the Civil Code, relating to natural resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 1966, as amended, Ma. Natural resources: oil and gas: drilling.

Existing law requires the owner of mineral rights in real property to give written notice to the owner or representative of the real property who is listed as the assessee on the current local assessment roll or as a lessee, and to any public utility that has a recorded interest in the real property if there is to be excavation of the utility interest, prior to the first entry upon the real property to prospect for, mine, or extract any mineral.

This bill would require the owner of mineral rights or its agent to provide a minimum of 5 days' notice specifying, among other information, the date of entry, the estimated length of time, and the general nature of the work when that owner or agent intends to enter the real property to undertake non-surface-disrupting activities, including surveying, water and mineral testing, and removal of debris and equipment.

The bill would also require the owner of mineral rights, or its agent, to provide a minimum of ~~60~~ 30 days' notice in writing, specifying the

extent and location of the prospecting, mining, or extracting operation, and the approximate time or times of entry and exit upon the real property, when that owner or agent intends to enter real property to undertake, surface-disrupting activities, including excavation, drilling new wells, constructing structures, bringing excavation vehicles or equipment on the real property, or reclamation of the real property after it has been disturbed. *The bill would also require written notice for any further entry by the mineral rights owner, for the purpose of surface-disturbing activities pursuant to those provisions, if the mineral rights owner's entry to the real property ceases for a period of one year or more.*

The bill would waive the ~~60-day~~ 30-day notice requirement described above under an emergency situation *if* authorized by the Division of Oil, Gas, and Geothermal Resources. *The bill would exclude from the requirement to provide notice an owner of the real property or an assessee that has a current, already negotiated agreement with the mineral rights owner, lessee, agent, or operator.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 848 of the Civil Code is amended to read:
- 2 848. (a) ~~The~~ *Except as provided in subdivision (c), the owner*
- 3 of mineral rights, as defined by Section 883.110, in real property
- 4 shall give a written notice *prior to the first entry* to the owner of
- 5 the real property who is listed as the assessee on the current local
- 6 assessment roll or to the owner's representative, or to the lessee
- 7 of the real property if different from the mineral rights owner, and
- 8 to any public utility that has a recorded interest in the real property
- 9 if there is to be excavation of the utility interest, under the
- 10 following circumstances:
- 11 (1) If the mineral rights owner or its agent intends to enter real
- 12 property for the purpose of undertaking non-surface-disrupting
- 13 activities such as surveying, water and mineral testing, and removal
- 14 of debris and equipment not involving use of an articulated vehicle
- 15 on the real property, the owner or agent shall provide a minimum
- 16 of five days' notice. Reasonable attempts shall be made to deliver
- 17 the notice by acknowledged personal delivery, but if that cannot
- 18 occur, the notice shall be delivered by registered letter and be

1 received a minimum of five days prior to the entrance on the
2 property. The notice shall specify all of the following:

3 (A) Date of entry.

4 (B) Estimated length of time the property will be occupied.

5 (C) General nature of the work.

6 (2) If the mineral rights owner or its agent intends to enter real
7 property for the purpose of excavation or other surface-disrupting
8 activities such as drilling new wells, constructing structures,
9 bringing articulated vehicles or excavation equipment on the real
10 property, or reclamation of the real property after the surface has
11 been disturbed, the owner or agent shall provide a minimum of 60
12 30 days' notice. The notice shall specify both of the following:

13 (A) The extent and location of the prospecting, mining, or
14 extraction operation.

15 (B) The approximate time or times of entry and exit upon the
16 real property.

17 (3) *If a mineral rights owner's entry to the real property ceases*
18 *for a period of one year or more, any further entry by the mineral*
19 *rights owner for the purpose of surface-disturbing activities*
20 *pursuant to paragraph (2) shall require written notice pursuant*
21 *to this subdivision.*

22 (b) (1) If a mineral rights owner has been authorized by the
23 Division of Oil, Gas, and Geothermal Resources to drill a relief
24 well or to take other immediate actions in response to an emergency
25 ~~incident situation, or if the division or its agent is drilling a relief~~
26 ~~well or taking other immediate actions in response to an emergency~~
27 ~~situation, the notice provisions under paragraph (2) of subdivision~~
28 ~~(a) shall be waived.~~

29 (2) For purposes of this ~~section subdivision~~, an "emergency"
30 ~~means a sudden, unexpected occurrence, involving a clear and~~
31 ~~imminent danger, demanding immediate action to prevent or~~
32 ~~mitigate loss of, or damage to, life, health, property, or essential~~
33 ~~public services. "Emergency" includes occurrences such as fire,~~
34 ~~flood, earthquake, or other soil or geologic movements, as well as~~
35 ~~occurrences such as riot, accident, or sabotage immediate action~~
36 ~~is necessary to protect life, health, property, or natural resources.~~

37 (c) *The notice specified in subdivision (a) shall not be required*
38 *if the owner of the real property or assessee has a current, already*
39 *negotiated surface use, access use, or similar agreement with the*
40 *mineral rights owner, lessee, agent, or operator.*

1 ~~(e)~~

2 ~~(d)~~ If the mineral rights owner has not complied with ~~this~~ *the*
3 notice requirement *specified in subdivision (a)*, the owner of the
4 real property listed on the current assessment roll or any public
5 utility which has a recorded interest in the real property may
6 request a court to enjoin the prospecting, mining, or extracting
7 operation until the mineral rights owner has complied. The absence
8 of a known owner on the assessment roll or any public utility which
9 has a recorded interest in the real property relieves the mineral
10 rights owner of the obligation to give the written notice to the
11 owner or public utility.

12 ~~(d)~~

13 ~~(e)~~ For purposes of this section, an “acknowledged personal
14 delivery” means that the written notice is personally delivered to
15 the owner, the owner’s representative, or lessee, and the owner,
16 the owner’s representative, or lessee acknowledges, in writing,
17 receipt of the notice.